

FILED

AUG 3 1989

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY DB DEPUTY CLERK

RE: )  
 )  
AMENDMENTS TO LOCAL )  
RULES OF COURT )  
\_\_\_\_\_ )

GENERAL ORDER NO. 248

Good cause appearing:

IT IS ORDERED that the amendments to the Local Rules of Court for the Eastern District of California, detailed in the attachment hereto are hereby adopted.

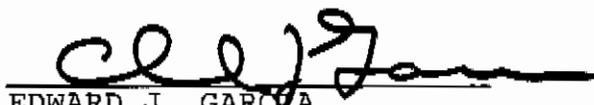
DATED: August 3, 1989

  
\_\_\_\_\_  
RAUL A. RAMIREZ  
U.S. DISTRICT COURT JUDGE

  
\_\_\_\_\_  
LAWRENCE K. KARLTON, CHIEF  
U. S. DISTRICT COURT JUDGE

  
\_\_\_\_\_  
ROBERT E. COYLE  
U.S. DISTRICT COURT JUDGE

  
\_\_\_\_\_  
MILTON L. SCHWARTZ  
U.S. DISTRICT COURT JUDGE

  
\_\_\_\_\_  
EDWARD J. GARCIA  
U.S. DISTRICT COURT JUDGE

  
\_\_\_\_\_  
EDWARD DEAN PRICE  
U.S. DISTRICT COURT JUDGE

LOCAL RULE 100

....

(c) .... Local Rules 500 through 599 are the Admiralty and In Rem Rules for the Eastern District of California.

LOCAL RULE 121  
THE CLERK OF THE DISTRICT COURT

....

(b) Office Hours. The regular office hours of the Clerk of the District Court at Sacramento and Fresno shall be from 8:00 a.m. to 5:00 p.m. each day except Saturdays, Sundays, legal holidays, and such other times so ordered by the Chief Judge. See FRCivP 77.

LOCAL RULE 136

CALCULATION OF TIME PERIODS

(a) Additional Time After Service by Mail. The time periods fixed by these Local Rules shall be subject to the provisions of FRCivP 6(e) or FRCrimP 45(e), allowing additional time to do some act or take some proceeding within a prescribed period after service of a notice or other paper on the party by mail. Whenever in these Local Rules a different time period is prescribed for an act depending on whether service is in person or by mail, the Rule shall be deemed to include the time period prescribed in FRCivP 6(e) and FRCrimP 45(e), and no additional time shall be allowed for service by mail.

(b) Computation of Time. The time periods fixed by these Local Rules shall be subject to the provisions of FRCivP 6(a) or FRCrimP 45(a). References in these Local Rules to "court days" are intended to invoke the computation prescribed by FRCivP 6(a) and FRCrimP 45(a).

(c) Specific Time Provisions. Pursuant to the provisions of FRCivP 6(d) or FRCrimP 45(d), the otherwise applicable time periods fixed by those Rules have been lengthened by order of the Court as set forth in these Local Rules governing service of notices of motion, affidavits and other documents.

LOCAL RULE 137

REDUCTION OF ORDERS TO WRITING--  
SERVICE OF ORDERS

(a) Reduction of Orders to Writing. Subject to FRCivP 54 and 58, and unless the Court otherwise directs or permits, whenever the Court makes an oral order (except intermediate orders in the course of a hearing), the prevailing party shall serve on all other parties and lodge forthwith, together with sufficient copies for all counsel, a proposed written order embodying all provisions of the orally announced order. Unless all counsel have approved the order as to form, counsel shall have 5 court days after service of a copy of the proposed order within which to apply to the Court for correction or modification of the order to reflect accurately the ruling of the Court. If the proposed order is approved by the Court, it shall be signed and filed. See LR 136.

(b) Service. Copies of all written orders signed and filed by the Court, whether drafted by counsel or by the Court, shall be served forthwith by the Clerk on all counsel who have appeared in the action. A certificate of service by the Clerk shall accompany the order as served and shall be attached to the order as filed.

LOCAL RULE 150  
DEPOSITS OF REGISTRY FUNDS

....

(b) Other Deposits. In all other circumstances not encompassed within subsection (a), specific leave of Court is required prior to making a deposit into the registry of the Court. Leave of Court may be requested by stipulation of all parties who have appeared or by motion set on the regular calendar of a Magistrate in Sacramento or Fresno not less than 3 court days from the date of filing and personal service thereof or not less than 6 court days from the date of filing and mailed service thereof. No additional time for service by mail is permitted. See LR 136(a). A copy of any such motion, the proposed order, and accompanying documents shall be provided directly to the Magistrate. See LR 302(b)(10).

LOCAL RULE 151

SECURITY

....

(e) Supersedeas Bond. When required, a supersedeas bond shall be 125 percent of the amount of the judgment unless the Court otherwise orders. See FRCivP 62.

(f) Form of Bond. ....

(g) Corporate Surety. ....

(h) Personal Surety. ....

(i) Cash, Negotiable Bonds of the United States and Property Bonds. ....

(j) Submission to Jurisdiction: Agent for Service of Process. ....

(k) Further Security or Justification of Personal Sureties. ....

LOCAL RULE 160

NOTICE OF SETTLEMENT OR OTHER DISPOSITION

....

(b) Dispositional Documents. Upon such notification of disposition or resolution of an action or motion, the Court shall thereupon fix a date upon which the documents disposing of the action or motion must be filed, which date shall not be more than 20 calendar days from the date of said notification. The Court may, on good cause shown, extend the time for filing the dispositional papers. A failure to file dispositional papers on the date prescribed by the Court may be grounds for sanctions. See also LR 284.

LOCAL RULE 181

CERTIFIED STUDENT ATTORNEYS

....

(H) Rights Upon Withdrawal of Certification. In the event certification is withdrawn under subsection (g)(3) or (5), the termination shall be effective 10 court days from the date on which the Clerk mails the Notice of Withdrawal of Certification. See LR 136. Upon receipt of such Notice, the certified Student may present a written request for a stay of the termination pending hearing, which the Chief Judge may allow only upon good cause shown. The Certified Student may contest the termination by a written request to the Chief Judge, presented within 10 court days of the mailing of the Notice of Withdrawal of Certification, for a hearing to show cause why his or her certification should not be terminated. Hearing on such request shall be commenced within 14 calendar days following receipt of such request, unless the time for such hearing be extended by the Chief Judge upon a showing of good cause.

The Chief Judge may assign responsibility for the conduct of the proceedings under this subsection to any other Judge.

LOCAL RULE 183

PERSONS APPEARING IN PROPRIA PERSONA

(a) Rules Governing Appearance. Any individual who is representing himself or herself without an attorney must appear personally or by courtesy appearance by an attorney admitted to the Bar of this Court and may not delegate that duty to any other individual, including husband or wife, or any other party on the same side appearing without an attorney. Any individual representing himself or herself without an attorney is bound by the Federal Rules of Civil or Criminal Procedure and by these Local Rules. Failure to comply therewith may be ground for dismissal, judgment by default, or any other sanction appropriate under these Rules. A corporation or other entity may appear only by an attorney.

(b) Address Changes. A party appearing in propria persona shall keep the Court and opposing parties advised as to his or her current address. If mail directed to a plaintiff in propria persona by the Clerk is returned by the Post Office, and if such plaintiff fails to notify the Court and opposing parties within 60 days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.

LOCAL RULE 230

CIVIL MOTION CALENDAR AND PROCEDURE

....

(b) Notice. .... The matter shall be set for hearing on the motion calendar of the Judge or Magistrate to whom the action has been assigned or before whom the motion is to be heard, not less than 28 days after personal service and filing of the motion or not less than 31 days after mailed service and filing of the motion. ....

(c) Opposition. Opposition, if any, to the granting of the motion shall be in writing and shall be filed in duplicate with the Clerk not less than 14 days preceding the noticed (or continued) hearing date. Opposition shall be accompanied by proof of personal service on opposing counsel not less than 14 days preceding the hearing date or by proof of mailed service not less than 17 days preceding the hearing date. ....

(d) Reply. Not less than 5 court days preceding the date of hearing, the moving party may serve and file in duplicate a reply to any opposition filed by a responding party.

(e) Related or Counter-Motions. Any counter-motion or other motion that a party may desire to make that is related to the general subject matter of the original motion shall be served and filed with the Clerk in the manner and on the date prescribed for the filing of opposition. ....

(f) Calculation of Time Periods. The time periods fixed by

this Rule shall supersede the time periods for service of notices of motions, affidavits, and other documents prescribed by FRCivP 6(d). See generally LR 136.

....

(m) Prisoner Cases. All motions, except motions to dismiss for lack of prosecution, filed in cases wherein one party is incarcerated and proceeding in propria persona, shall be submitted upon the record without oral argument unless otherwise ordered by the Court. Such motions need not be noticed on the motion calendar. Opposition, if any, to the granting of the motion shall be in writing and shall be served and filed with the Clerk by the responding party not more than 18 days, plus 3 days for mailing, after the date of service of the motion. .... The moving party may, not more than 5 court days after the opposition is served, plus 3 days for mailing, serve and file a reply to the opposition. All such motions shall be deemed submitted 28 days after service of the motion or when the reply is filed, whichever comes first.

LOCAL RULE 231

TEMPORARY RESTRAINING ORDER--  
PRELIMINARY INJUNCTION

....

(c) Documents to be Filed. No hearing on a temporary restraining order will normally be set unless the following documents are provided to the Court and, unless impossible under the circumstances, to the affected parties or their counsel:

....

(8) in all instances in which a temporary restraining order is requested ex parte, the proposed order shall further notify the affected party that he may apply to the Court for modification or dissolution on 2 court days notice by personal service or such other notice as the Court may allow. See FRCivP 65(b); LR 136.

LOCAL RULE 232  
RECEIVERS

(a) Definitions. For purposes of this Local Rule:

(1) "temporary receiver" shall mean a receiver appointed without notice or on less than the notice provided in LR 230 to the party sought to be subjected to the receivership, and

(2) "receiver" shall mean any receiver appointed either after the giving of (i) at least the notice of hearing upon the application for appointment of receiver required by LR 230, or (ii) such lesser notice of hearing on such application as may be agreed to by the party sought to be subjected to the receivership.

....

(e) Reports of Receivers.

(1) Unless otherwise ordered by the Court, at least 1 day before the hearing provided in paragraph (c) the temporary receiver shall file and personally serve a summary report of the temporary receivership.

(2) At such time as the Court may direct, and at least once a year, a receiver shall file and serve a report which shall be heard with notice in accordance with LR 230 to all parties. The report shall contain ....

LOCAL RULE 250

DISCOVERY DOCUMENTS

(a) Interrogatories. Interrogatories shall be so arranged that after each separate question there shall appear a blank space reasonably calculated to enable the answering party to insert the answers and/or objections. The answering party shall answer or object within the spaces provided, or, if unable to do so, shall retype the interrogatories along with the answers and/or objections.

(b) Requests for Admission and Requests for Production. Responses to requests for admission or requests for production shall set forth each request in full before each response.

(c) Objections. Each objection to any discovery request shall include a statement of reasons.

(d) Filing of Discovery Documents. The following documents and proofs of service thereof shall not be filed with the Clerk until there is a proceeding in which the document or proof of service is at issue:

- (1) Transcripts of depositions upon oral examination;
- (2) Transcripts of depositions upon written questions;
- (3) Interrogatories;
- (4) Answers or objections to interrogatories;
- (5) Requests for the production of documents or to inspect tangible things;
- (6) Responses or objections to requests for the production

of documents or to inspect tangible things;

(7) Requests for admission; and

(8) Responses or objections to requests for admission.

When required in a proceeding, the original transcripts of depositions shall be filed. See LR 140(b), 260(d). As to other discovery materials, only that part of the document which is in issue shall be filed.

(e) Custody and Maintenance of Deposition Transcripts. Counsel noticing a deposition is responsible to obtain the original deposition transcript or audio or video tape record from the deposition reporter and to retain it under conditions suitable to protect it from loss, destruction or tampering until the earlier of (1) the date it is filed with the Court in accordance with LR 250(d) or (2) one year after the judgment has become final or other final disposition of the action. Prior to such date, for good cause, any party or intervenor may move the Court for an order prohibiting the destruction of a transcript or record permitted hereunder or otherwise directing the custody and maintenance of the transcript or record.

LOCAL RULE 251

MOTIONS DEALING WITH DISCOVERY MATTERS

(a) Hearing re Discovery Disagreements. Except as provided in paragraph (e), a hearing of a motion pursuant to FRCivP 26-37 may be had by the filing of a notice of motion and motion scheduling the hearing date on the appropriate calendar at least 21 days from the date of filing. No other documents need be filed at this time. The hearing shall be dropped from the calendar without prejudice if the stipulation re discovery disputes or an affidavit as set forth below is not filed, with a copy provided for the Magistrate or Judge hearing the motion, on or before 3 court days prior to the scheduled hearing date. If the notice of motion and motion are filed concurrently with the stipulation, the motion shall be placed on the next regularly scheduled calendar for the Magistrate or Judge hearing the motion at least 3 court days thereafter.

(b) Requirement of Conferring. Except as hereinafter set forth, a motion made pursuant to FRCivP 26-37 shall not be heard unless (1) the parties have conferred and attempted to resolve their differences and (2) the parties have set forth their differences and the bases therefor in a joint stipulation re discovery disagreements. Counsel for all interested parties shall confer in advance of the filing of the motion or in advance of the hearing of the motion in a good faith effort to resolve the differences that are the subject of the motion. Counsel for

the moving party or prospective moving party shall be responsible for arranging the conference, which shall be held at a time and place and in a manner mutually convenient to counsel.

(c) Stipulation re Discovery Disagreement. If the moving party is still dissatisfied after the conference of counsel, that party shall draft with the participation of the other interested parties, and shall file a document entitled "Stipulation re Discovery Disagreements." All parties who are concerned with the discovery motion shall assist in the preparation of, and shall sign, the stipulation, which shall specify with particularity the following matters:

(1) The details of the conference or conferences;

(2) A statement of the nature of the case and its factual disputes insofar as they are pertinent to the matters to be decided and the issues to be determined at the hearing;

(3) The contentions of each party as to each contested issue, including a memorandum of each party's respective arguments concerning the issues in dispute and the legal authorities in support thereof. Each specific interrogatory, deposition question or other item objected to, or concerning which a protective order is sought, and the objection thereto, shall be reproduced in full. The respective arguments and supporting authorities of the parties shall be set forth immediately following each such objection. When an objection is raised to a number of items or a general protective order is

sought that is related to a number of specific items, the arguments and briefing need not be repeated. If a protective order is sought that is unrelated to specific, individual items, repetition of the original discovery document is not required. All arguments and briefing that would otherwise be included in a memorandum of points and authorities supporting or opposing the motion shall be included in this stipulation, and no separate briefing shall be filed.

(d) Failure to Meet or Obtain Stipulation. If counsel for the moving party is unable, after a good faith effort, to secure the cooperation of counsel for the opposing party in arranging the required conference, or in preparing and executing the required stipulation, counsel for the moving party may file and serve an affidavit so stating, setting forth the nature and extent of counsel's efforts to arrange the required conference or procure the required stipulation, the opposing counsel's responses or refusals to respond to those efforts, the issues to be determined at the hearing, and the moving party's contentions with regard to the issues, including any briefing in respect thereto. Refusal of any counsel to participate in a discovery conference, or refusal without good cause to execute the required stipulation, shall be grounds, in the discretion of the Court, for entry of an order adverse to the party represented by counsel so refusing or adverse to counsel. See LR 110.

(e) Exceptions to Conference Requirement. The foregoing

conference requirement shall not apply to the following situations: (1) when there has been a complete and total failure to respond to a discovery request or order, and (2) when the only relief sought by the motion is the imposition of sanctions. In either instance, the aggrieved party may bring a motion for relief for hearing on 14 days notice by personal service or 17 days notice by mail. The responding party shall file a response thereto not later than 5 court days prior to the hearing date, accompanied by proof of personal service not less than 5 court days preceding the hearing date or by proof of mailed service not less than 8 court days preceding the hearing date. The moving party may file and serve a reply thereto not less than 3 court days prior to the hearing date.

(f) Notice Provisions. By reason of the notice provisions set forth in paragraphs (a) and (e) above, the provisions of Local Rule 230 shall not apply to motions and hearings dealing with discovery matters.

LOCAL RULE 271

DISMISSAL CALENDAR

....

(b) Responses to Dismissal Notice. Pursuant to the notice requirements of LR 230, the Clerk shall notify all parties to show cause by affidavit filed in duplicate why such action should or should not be dismissed for lack of prosecution. All such affidavits opposing dismissal shall be filed no later than filing date required by LR 230 for opposition briefs; all affidavits supporting dismissal shall be filed no later than the date required by LR 230 for reply briefs. Failure to file a timely response to the dismissal notice may subject counsel or parties to monetary sanctions and/or may result in denial of the right to oppose or urge dismissal and to present oral arguments at the hearing, or may be deemed to be an admission that the failure to prosecute has resulted in prejudice to the opposing side.

....

LOCAL RULE 280

DILIGENCE--SETTING FOR PRETRIAL  
CONFERENCE OR FOR TRIAL

....

(c) Opposition and Reply re Motion to Set. Opposition to a motion to set an action for pretrial conference or trial and any reply shall be filed in accordance with LR 230. Opposition shall state with specificity the reasons for opposing the motion.

....

LOCAL RULE 281

PRETRIAL STATEMENTS

(a) Time for Filing. As required by the pretrial order in the action, counsel shall file either separate pretrial statements or a joint pretrial statement as follows:

(1) Separate Statements. Not less than 10 court days prior to the date set by the Court for the holding of the final pretrial conference, counsel for the plaintiff shall personally serve and file in duplicate a pretrial statement in the form prescribed herein. Alternatively, counsel for the plaintiff may serve by mail 13 court days and file 10 court days prior to the conference. Not less than 5 court days prior to the date set for the holding of the pretrial conference, counsel for all other parties shall serve on all parties and file in duplicate pretrial statements which may adopt by reference any or all of the matters set forth in the plaintiff's pretrial statement.

(2) Joint Statements. Not less than 5 court days prior to the date set by the Court for the holding of the final pretrial conference, or such other time as the Court may order, counsel for all parties shall file in duplicate a joint pretrial statement in the form prescribed herein.

....

LOCAL RULE 283

PRETRIAL ORDER

(a) Preparation of Pretrial Order. The Court, or a party if so directed by the Court, shall prepare a proposed pretrial order, serve a copy thereof on all parties, and lodge the original. If directed by the Court, a party shall do so within 8 court days after the pretrial conference. Any party upon whom the proposed pretrial order is served may, within the time permitted in the proposed pretrial order, submit objections to the proposed pretrial order and, in so doing, shall set forth the basis of the objections and any changes to be made in the proposed pretrial order.

....

LOCAL RULE 285

TRIAL BRIEFS

(a) Opening Briefs. Counsel for each party shall file in duplicate and serve on all other parties within the time set by the Court but not less than 10 court days prior to trial a brief setting forth:

(1) a short statement of facts;

(2) all admissions and stipulations not recited in the pretrial order; and

(3) a summary of points of law, including reasonably anticipated disputes concerning admissibility of evidence, legal arguments, and citations of authority in support thereof.

(b) Responding Briefs. Although not required to do so, opposing counsel may file in duplicate and serve on all other parties an answering brief within the time set by the Court but not less than 3 court days prior to trial; provided, however, that, as to any evidentiary questions raised in a trial brief by one party and not also addressed in the opposing party's opening brief, a brief shall be filed and served by the opposing party on those questions at least 3 court days prior to trial.

LOCAL RULE 290

SETTLEMENT OF FINDINGS OF FACT  
AND CONCLUSIONS OF LAW

....

(b) Procedure. If the proposed findings and conclusions are approved as to form by all parties, they shall be lodged with the Clerk who shall immediately present them to the Court. Alternatively, they may be lodged with the Clerk, with proof of service upon all parties, in which case the Clerk shall note the date of lodging thereon and shall hold the same for a period of 7 court days before presentation to the Court.

(c) Disapproval. Any party who disapproves the form of proposed findings or conclusions shall, within 4 court days after service of a copy thereof, file with the Clerk and serve a notice of disapproval, together with reasons therefor, and lodge and serve a proposed modification thereof.

LOCAL RULE 292

COSTS

(a) ....

(b) Filing of Cost Bill. Within 10 days after entry of judgment or order under which costs may be claimed, the prevailing party may serve on all other parties and file with the Clerk a bill of costs conforming to 28 U.S.C. § 1924. See FRCivP 6(a), (e); LR 136. The cost bill shall itemize the costs claimed and shall be supported by a memorandum of costs and an affidavit of counsel that the costs claimed are allowable by law, are correctly stated, and were necessarily incurred. Cost bill forms shall be made available by the Clerk's office upon request.

(c) ....

(d) ....

(e) Review. On motion filed and served within 5 court days after notice of the taxing of costs has been served, the action of the Clerk may be reviewed by the Court as provided in FRCivP 54(d). See LR 136, 230.

(f) ....

LCCAL RULE 300

SCOPE OF MAGISTRATES' RULES--GENERAL AUTHORITY

....

(c) Definitions. As used in these Magistrates' Rules:

(1) "Magistrate" means both the full-time Magistrates and the part-time Magistrates sitting in the Eastern District of California.

(2) "General pretrial matters" means all pretrial matters as to which the standard of review is the "clearly erroneous or contrary to law" standard set forth in 28 U.S.C. § 636(b)(1)(A). See FRCivP 72(a).

(3) "Excepted pretrial matters" means all pretrial matters as to which de novo review by a Judge is available. See FRCivP 72(b).

LOCAL RULE 302

MATTERS TO BE HEARD BY MAGISTRATES

....

(b)(19) all pretrial motions brought pursuant to the Supplemental Rules for Certain Admiralty and Maritime Cases, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, or to dismiss for failure to state a claim upon which relief can be granted.

LOCAL RULE 304

ROLE OF MAGISTRATE AND PROCEDURE  
FOR RESOLVING GENERAL PRETRIAL MATTERS  
IN CRIMINAL AND CIVIL ACTIONS

....

(b) Finality. Rulings by Magistrates shall be final if no reconsideration thereof is sought from the Court within 10 court days from service of the ruling on the parties, see FRCivP 6(a); FRCivP 6(e); FRCrimP 45(a); FRCrimP 45(e), unless a different time is prescribed by the Magistrate or the Judge. See LR 136. No motion for reconsideration of rulings on criminal motions may be made to the Magistrate.

....

(d) Opposition. Opposition to the request shall be served and filed within 5 court days after service of the request. See LR 136. The assigned Judge may also reconsider any matter at any time sua sponte.

(e) Notice and Argument. LR 230 has no application to requests for reconsideration under this Rule. No separate notice is required. The request shall be referred to the assigned Judge automatically by the Clerk, 15 court days after the filing of the request, without the necessity of a specific motion for such reference by the parties. Unless otherwise ordered, requests in criminal actions shall be calendared and heard at the trial confirmation. No oral argument shall be allowed in the usual civil proceeding unless the assigned Judge specifically calendars such argument, either on request of a party or sua sponte.

LOCAL RULE 305

MAGISTRATE'S AUTHORITY IN EXCEPTED PRETRIAL MATTERS

....

(b) Objections. Within 10 court days after service of the proposed findings and recommendations on the parties, see FRCivP 6(a); FRCivP 6(e); FRCrimP 45(a); FRCrimP 45(e), unless a different time is prescribed by the Magistrate or Judge, any party may file an original and one copy with the Clerk, and serve on the Magistrate and on all other parties, written objections to such proposed findings and recommendations, captioned "Objections to Magistrate's Proposed Findings and Recommendations," by filing an original and one copy with the Clerk and serving a copy on the Magistrate and on all other parties. See LR 136. All such objections shall specifically identify each portion of the proposed findings and/or recommendations to which objection is made and the basis for the objection.

....

(d) Opposition. Responses to the objections shall be and filed with the Clerk and served on the Magistrate and on all other parties within 5 court days after service of the objections. See LR 136.

(e) Notice and Argument. LR 230 has no application to objections to proposed findings and recommendations under this Rule. No separate notice is required. The objections shall be referred to the assigned Judge automatically by the Clerk, 15 court days after the filing of the request, without the necessity

of a specific motion for such reference by the parties. Unless otherwise ordered, requests in criminal actions shall be calendared and heard at the trial confirmation. Oral arguments in civil actions shall be calendared by the courtroom deputy upon the request of any party filed with that party's objections or opposition or upon the direction of the assigned Judge. ....

LOCAL RULE 420

REFERRAL OF MISDEMEANORS TO MAGISTRATES

(a) Reference to a Magistrate. Pursuant to Rule 2(a) of the Rules of Procedure for the Trial of Misdemeanors Before United States Magistrates, all citations, violation notices, complaints, informations or indictments charging petty offenses or misdemeanors shall be referred by the Clerk directly to the appropriate Magistrate.

(b) Court Reporters. A party requesting a court reporter pursuant to Magistrate Rule 5 of the Rules of Procedure, see LR 422, must make such request sufficiently prior to trial to ensure the presence of a court reporter.

LOCAL RULE 422

APPEAL FROM CONVICTION BY A MAGISTRATE

....

(b) Record. A transcript, if desired, shall be ordered as prescribed by Rule 10(b), Federal Rules Appellate Procedure, except that, in the absence of a reporter, the transcript shall be prepared by the Clerk, and one copy shall be served on each of the parties. Parties shall have 10 court days to object to any specific matter contained therein by filing and serving a written statement of grounds for the objection. See LR 136. If no party objects, the parties shall be deemed to have stipulated to the accuracy of the transcript. Upon objection, the matter will be referred to the assigned Magistrate who shall, within 10 court days after the referral, correct if necessary and certify the accuracy of the transcript.

Within 30 days after a transcript has been ordered, the Clerk shall file the original and one copy of the transcript, as stipulated to by the parties or corrected and certified by the assigned Magistrate. Upon such filing of the transcript, the record on appeal shall be deemed complete.

If no transcript is ordered within 10 court days after the notice of appeal is filed and served, see LR 136, the record on appeal shall be deemed complete without a transcript.

....

(d) Notice of Hearing. After assignment, the Clerk shall promptly notify the parties of the date and time set for oral

argument which shall not be less than 60 nor more than 90 days after the date of the notice. An earlier date may be set upon joint application of the parties to the assigned Judge.

(e) Time for Serving and Filing Briefs. Appellant's brief shall be served and filed in duplicate within 21 days after service of the notice of hearing. See LR 136. Appellee's Brief shall be served and filed in duplicate within 21 days after the filing and service of the appellant's brief. See LR 136. Appellant may serve and file a replu brief within 5 court days after service of appellee's brief. These periods may be altered by the assigned Judge upon application of the parties or otherwise.

LOCAL RULE 461

MOTIONS TO CORRECT PRESENTENCE REPORTS

If the defendant or defendant's counsel alleges any factual inaccuracy in the presentence report, a written motion for correction of the report shall be served on the probation officer and the attorney for the government not later than 5 court days prior to the date set for judgment and sentencing. The motion shall identify the specific statements alleged to be factually inaccurate; it shall set forth the specific matters contested as to the sentencing or correctional treatment of the defendant.

LOCAL RULE 520  
SECURITY FOR COSTS

....

(c) Time of Posting Security. The \$1000 security for costs required by Supplemental Rule F(1) and LR 520(b) shall be posted prior to issuance of process and service of the complaint. Any party ordered to post security for costs in a Supplemental Rule E action or additional security in an action under Supplemental Rules E or F shall do so within 4 court days after service of the order requiring its posting, unless a different time is specified by the Court. See LR 136.

....

LOCAL RULE 521

DEPOSITS OF MARSHAL'S FEES AND EXPENSES

(a) Deposit Required Before Seizure. A party who seeks arrest, attachment or garnishment of property in an action governed by Supplemental Rule E shall deposit with the Marshal the sum estimated by the Marshal to be sufficient to pay the fees and expenses of arresting and keeping the property for at least 10 calendar days. The Marshal is not required to execute process of arrest, attachment or garnishment until such deposit is made. See 28 U.S.C. § 1921.

....

LOCAL RULE 530

PUBLICATION OF NOTICE OF ACTION AND ARREST

(a) Content of Notice. The notice required by Supplemental Rule C(4) shall be published once in accordance with LR 171. See LR 580. The notice shall contain the following:

....

(5) A statement that claims of persons entitled to possession or claiming an interest pursuant to Supplemental Rule C(6) must be filed with the Clerk and served on the attorney for the plaintiff in accordance with and within the time specified in Supplemental Rule C(6) following the date of publication;

(6) A statement, first, that answers to the complaint must be filed and served in accordance with and within the time specified in Supplemental Rule C(6) following the date of publication and, second, that default may be entered and condemnation ordered in the absence thereof;

(7) A statement that applications for intervention under FRCivP 24 by persons claiming maritime liens or other interest shall be filed with the Clerk and served on the attorney for the plaintiff in accordance with and within the time specified in Supplemental Rule C(6) for filing a claim following the date of publication;

....

RULE 540

DEFAULT IN ACTION IN REM

(a) Notice Required. A party seeking a default judgment in an action in rem shall show to the satisfaction of the Court that due notice of the action and arrest of the property has been given:

(1) By publication, see LR 530;

(2) By personal service on the person having custody of the property,

(3) If the property is in the hands of a law enforcement officer, by personal service on the person having custody prior to its possession by any law enforcement agency or officer, and

(4) By personal service or by certified mail, return receipt requested, to every other person who has not appeared in the action and is known to have an interest in the property; provided, however, that failure to give actual notice to such other person may be excused upon a satisfactory showing of diligent efforts to give such notice without success.

(b) Notice to Persons with Recorded Interests. In providing the notice required by the foregoing subdivision (a)(3), the plaintiff shall satisfy the following requirements, provided, however, that such satisfaction shall not limit the obligation to give notice to any other persons known to have an interest.

(1) If the defendant property is a vessel documented under the laws of the United States, the party must obtain a current certificate of ownership from the United States Coast Guard and

give notice to all persons named therein.

(2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, the party must obtain information from the issuing authority and give notice to the persons named in the records of such authority.

(3) If the defendant property is of such character that there exists a registry of recorded property interests and/or security interests in the property (whether governmental or private), the party must obtain information from each such registry and give notice to the persons named in the records of each such registry.

(c) Evidence of Search for Recorded Interests. As part of the motion for default judgment, the moving party shall provide to the Court a copy of the United States Coast Guard certificate of ownership, the information obtained from the issuing authority under the Federal Boat Safety Act, and/or the information obtained from the private and/or governmental registries.

(d) Motion for Default Judgment. Upon a showing that no one has appeared to claim the property and give security, and that due notice of the action and arrest of the property has been given, a party may move for judgment at any time after the time for answer has expired. See LR 302(b)(17). If no one has appeared, the party may have an ex parte hearing before the Court and judgment without further notice. In any person has appeared and does not join in the motion for judgment, such person shall be given 7 court days notice of the motion, see LR 136; provided,

however, that the Court can extend or shorten the time of the required notice on good cause. See LR 142.

RULE 550

CUSTODY OF PROPERTY

(a) Safekeeping of Property When Seized. When a vessel, cargo or other property is seized, the Marshal shall take custody and arrange for adequate and necessary security for its safekeeping which may include, in the Marshal's discretion, the placing of keepers on or near the vessel. The Court may order the appointment of of a facility or person as substitute custodian of the property in lieu of the Marshal on motion of any party or on its own motion. See LR 550(c).

(b) Cargo Handling, Repairs and Movement of the Vessel. Upon arrest or attachment of the vessel, no cargo handling, repairs or movement of the vessel may be made without a Court order. The applicant for such an order shall give written notice to the Marshal and to all parties who have appeared prior to the application for such order, and the certificate of service of such notice shall be filed with the Clerk before application is made to the Court. For good cause shown, and upon proof of adequate insurance coverage to indemnify for any liability, the Court may direct the Marshal to allow the conduct of cargo handling, repairs, movement of the vessel or other operations on a vessel under arrest or attachment. Neither the United States nor the Marshal shall be liable for the consequence of the undertaking or continuation of any such activities during the arrest or attachment.

(c) Motion for Change in Arrangements. After a vessel,

cargo or other property has been taken into custody by the Marshal, any party then appearing may move the Court to dispense with keepers or to remove or place the vessel, cargo or other property at a specified facility, to designate a substitute custodian, or for similar relief. The applicant for such an order shall obtain a hearing date from the courtroom clerk for the assigned judge or magistrate and thereupon give written notice of the motion to the Marshal and to all parties who have appeared. The moving papers shall establish the suitability of the substitute custodian and the existence of adequate insurance. At the hearing of the motion, the Court will determine whether such a facility or substitute custodian is capable of and will safely keep the vessel, cargo or other property. No hearing date need be obtained for an order to be made concurrently with the order authorizing the Marshal to take the vessel, cargo or other property into custody if the moving papers for that authority and for the substitute custodian are filed concurrently, satisfy the requirements stated herein and expressly declare in the caption that no hearing is requested.

(d) Insurance. The Marshal may order insurance to protect the Marshal, his deputies, keepers and substitute custodians from liability assumed in arresting and holding the vessel, cargo or other property and performing whatever services are undertaken to protect the vessel, cargo or other property and maintain the Court's custody. The party applying for arrest of the vessel, cargo or other property shall reimburse the Marshal for premiums

paid for the insurance and shall be an additional insured on the policy. The party applying for removal of the vessel, cargo or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium shall reimburse the Marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo or other property is in the custody of the Court.

(e) Claims by Suppliers for Payment of Charges. A person who furnishes services or supplies to a vessel, cargo or other property in custody who has not been paid and claims the right to payment as an expense of administration shall submit an invoice to the Court for approval in the form of a verified claim at any time before the vessel, cargo or other property is released or sold. See LR 140. The supplier must serve copies of the claim on the Marshal, substitute custodian if one has been appointed, and all parties appearing in the action. The Court may consider the claims individually or schedule a single hearing for all claims against the property.

LOCAL RULE 560

APPRAISAL

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(c) Appraisal. The appraiser shall give 2 court days personal notice, or 1 day mailed notice plus the three days for mailing of the time and place of making the appraisal to the parties who have appeared in the action. The appraiser shall file the appraisal in writing with the Clerk as soon as it is completed and shall serve it on all parties.

LOCAL RULE 570

SALE OF PROPERTY

(a) Notice. Unless otherwise ordered upon a showing of urgency, impracticality or other good cause, or as provided by law, notice of the sale of property in an action in rem shall be published daily in accordance with LR 171 for a period of 4 calendar days prior to the date of sale. See LR 580.

....

(f) Time and Procedure for Objection to Sale. An interested person may object to the sale by filing a written objection with the Clerk within 3 court days following the sale, serving the objection on all parties, the successful bidder and the Marshal, and depositing a sum with the Marshal that is sufficient to pay the expense of keeping the property for at least 6 court days. Service shall be in person or by an appropriate overnight delivery method calculated to ensure delivery to the recipient within 30 hours of transmittal. Payment of the required deposit to the Marshal shall be in cash, certified check, or cashier's check. The written objection must be endorsed by the Marshal with an acknowledgement of receipt prior to filing with the Clerk.

(g) Confirmation of Sale Without Motion. A sale shall stand confirmed as of course without any affirmative action by the Court unless (1) written objection is filed with the clerk within the time allowed under these Rules, or (2) the purchaser is in default for failure to pay the balance due the Marshal.

The purchaser in a sale so confirmed as of course shall present a form of order reflecting the confirmation of the sale for entry by the Clerk on or after the fifth day following the sale. The Marshal shall transfer title to the purchaser upon presentation of such order signed by the Clerk.